January 29, 1949

Mr. David J. Marks
County Attorney
Courthouse
Bisbee, Arizona

Dear Dave:

We have your letter wherein you state:

> "We are forwarding the enclosed material to you for your opinion.
>
> The file indicates that the State Examiner has informed the Cochise County School Superintendent that the voucher should not be approved for payment for the reason that it covers the cost of extra curricular activities of Bisbee High School and the income from such activities was not handled through the county school superintendent's office.
>
> In view of the fact that we believe that all school districts in the State handle the matters in the way that Bisbee High School has handled it in this case, a ruling from the Attorney General is proper, in order that any approved handling will be uniform throughout the State."

We must apologize for delaying this matter so long but have been trying to find some way to authorize the payment of one of the claims submitted. A letter from the County School Superintendent accompanying yours states that the Bisbee High School has withdrawn their request for the expense of transporting athletic teams to and from athletic games, and we

take it that the only claims to be considered are in connection with the publication of the school annual known as the "Cuprite" and the claim of the Warren Laundry for cleaning and laundry. It is not quite clear to us what the laundry bill is for, but we are assuming that it is for supplies furnished the athletic teams and for cleaning their uniforms.

It further appears from a letter from the County School Superintendent that the annual was sold to the students for $2.00 each and the proceeds from the sale of the annual was not turned into the school fund. We have diligently searched our statutes to find a provision of law whereby a claim for publishing the annual may be paid out of school funds, but have been unable to find any law to sustain a contention which would authorize the payment of this claim out of school funds. A school district may only pay out school funds when authorized to do so by law either expressly or by necessary implication. Therefore, it is our opinion that the charge for the publication of the annual is not a legal charge against the Bisbee High School District and may not be paid out of its funds.

If we are correct in our assumption that the bill of the Warren Laundry is for furnishing supplies and cleaning athletic uniforms for students used in connection with athletic activities of the school, then a different situation arises and the claim may be paid. In Alexander v. Phillips, 31 Ariz. 503, 254 Pac. 1056, our Supreme Court considered the question of athletic activities in our schools and held that such activities come within the definition of "other special subjects" including physical education. In that case the court said:

> " * * * That athletic games under proper supervision tend to the proper development of the body is a self-evident fact. It is not always realized, however, that they have a most powerful and beneficial effect upon the development of character and morale. To use the one game of football as an illustration, the boy who makes a successful football player must necessarily learn self-control under the most trying circumstances, courage, both physical and moral, in the face of strong opposition, sacrifice of

> individual ease for a community purpose, teamwork to the exclusion of individual glorification, and above all that 'die in the last ditch' spirit which leads a man to do for a cause everything that is reasonably possible, and, when that is done, to achieve the impossible by sheer willpower. The same is true to a greater or lesser degree of practically every athletic sport which is exhibited in a stadium.";

and again in the same opinion the court said:

> " * * * Competitive athletic games, therefore, from every standpoint, may properly be included in a public school curriculum. * * * ";

further the court said:

> "We think 'other special subjects' reasonably includes physical education, and indeed, by virtue of this provision, not only practically all high schools in the state of Arizona, but many of the grammar schools, have for years employed physical and athletic directors, both men and women, and physical education for both boys and girls is a subject required in the courses of study adopted by a large majority of our high schools, and approved by the state board of education in pursuance of paragraph 2778, Revised Statutes of Arizona of 1913; the Phoenix union high school being among this number.
>
> If physical education be one of the special subjects permitted by law, it is a matter for the reasonable discretion of our school authorities as to how such subject should be taught, and no parent who has ever had a child participate in any form of the athletic games and contests recognized and

> given by the various schools of this state, and who has noted the increased interest shown and effort put forth by the participants when such games and sports are open to the view of their schoolmates, friends and parents, both in intra and inter mural competition, but will realize the educational value both of the games and of a suitable place for giving them."

In other words, if the school may furnish equipment for a chemistry class or tools and appliances for manual training, we see no reason why the school may not furnish such equipment as may be necessary to carry on its physical education, such as uniforms, etc., used in the school's athletic activities.

Taking the reasoning of our Supreme Court in the opinion just cited, if the charge of the Warren Laundry is in connection with the athletic activities of the Bisbee High School as approved by the school, then it is our opinion the bill submitted is a proper charge against the district.

We are returning herewith the claims submitted. With kindest personal regards, we are

Yours truly,

FRED O. WILSON
Attorney General

EARL ANDERSON
Assistant Attorney General

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encl.